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1105 U.S. PTO  
08/865044  
05/29/97

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Jim APPINO et al.

Serial No.: FWC of s.n. 08/574,689  
filed December 19, 1995

Group Art Unit: 1502  
Examiner: R. Bawa

Filed: Herewith

For: DEVICE FOR DISPENSING A THERAPEUTIC OR COSMETIC SUBSTANCE, THE  
INERT VEHICLE OF WHICH IS A VOLATILE POLYDIORGANOSILOXANE, AND  
COMPOSITION INTENDED TO BE USED IN THE DEVICE

**INFORMATION DISCLOSURE STATEMENT**

Assistant Commissioner of Patents  
Washington, DC 20231

Sir:

Attached hereto is a copy of the information disclosure statement, including PTO form 1449, filed in priority application number 08/291,434 on February 1, 1995. Copies of the references cited on the PTO form 1449 and the search report on the corresponding foreign application were provided and should be in the parent application file. Also attached is copy of the corresponding PTO form 1449 initialed by the examiner in the priority application.

In parent application number 08/574,689, the examiner declined to consider references listed on the PTO form 1449. Applicants respectfully submit that the rules require the examiner to consider the references that were declined consideration.

Under the rules, the examiner must consider a submitted reference that "is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application," even when there is "merely an 'X' and 'Y' or 'A' indication on a search report." MPEP 609. In the present case, since the references were listed on a foreign search report, which indicates the relevance of the references, applicant respectfully submits

## Information Disclosure Statement

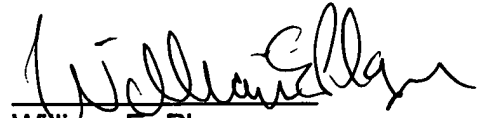
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that the examiner must consider the references under the rules, as did the examiner in the priority application.

Since this Information Disclosure Statement is being filed with the above-identified application, no fee is required.

Jacobson, Price, Holman & Stern, PLLC  
400 Seventh Street, N.W.  
Washington, DC 20004  
(202) 638-6666  
Atty. Dkt. No.: P58317US2  
Date: May 29, 1997

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Player", written over a horizontal line.

William E. Player  
Registration No. 31,409

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Jim APPINO ET AL.

Serial No.: 08/291,434

Group Art Unit:

Filed: August 16, 1994

Examiner:

For: DEVICE FOR DISPENSING A THERAPEUTIC OR COSMETIC SUBSTANCE, THE  
INERT VEHICLE OF WHICH IS A VOLATILE POLYDIORGANOSILOXANE, AND  
COMPOSITION INTENDED TO BE USED IN THE DEVICE

INFORMATION DISCLOSURE STATEMENT

Honorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

Sir:

As a means of complying with the duty of disclosure under 37 CFR §1.56, and in accordance with 37 CFR §§1.97 and 1.98, Applicant(s), through the undersigned attorney, submits this Information Disclosure Statement. The patents, publications or other information submitted herewith are listed on the attached Form PTO-1449 and enclosed French Search Report and copies are attached.

In accordance with 37 CFR §1.97(b)(3), this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits of the above-identified application. In the event this Information Disclosure Statement is filed after the mailing date of a first Office Action on the merits but before the mailing date of either a Final Action under 37 CFR

\$1.113 or a Notice of Allowance under 37 CFR §1.311, please charge the fee of \$210.00, as set forth in 37 CFR §1.17(p), to Deposit Account No. 06-1358. A duplicate copy of this paper is enclosed.

Respectfully submitted,

JACOBSON, PRICE, HOLMAN & STERN

By:

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WILLIAM E. PLAYER  
Reg. No. 31,409

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Atty. Dkt. No.: 05023/P58317  
Date: February 1, 1995